IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10359 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)

Versus

KANTILAL MANGLAJI DAMOR - Respondent(s)

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Appearance :

MRS VASAVDATTA BHATT for Petitioner No(s).: 1.

MR GK RATHOD for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 28/06/2005

ORAL JUDGMENT

1.0 The petitioner Corporation has challenged the order

dated 12.05.1999 passed by the Labour Court, Ahmedabad in Reference (LCA) No.1600 of 1996, whereby the Labour Court while exercising powers u/s.11(A) of the Industrial Disputes Act, 1947 has substituted the penalty of dismissal by reinstating the respondent with continuity in service and a penalty of stoppage of one increment with future effect.

2.0 The respondent herein was employed as a Conductor with the petitioner Corporation. On 04.11.1994, while the respondent was on duty, the bus was checked by the checking squad of the petitioner Corporation. The checking squad found certain irregularities in the issuance of tickets and in the collection of fares from the passengers. Therefore, charge sheet was issued and departmental inquiry was held against the respondent. Since the charges against the respondent were proved, he was dismissed from service vide order dated 26.09.1995. First appeal was preferred by the respondent which was rejected by the First Appellate Authority of the petitioner Corporation.

2.1 Feeling aggrieved by the said order, the respondent raised industrial dispute, which, ultimately, came to be referred to the Labour Court, Ahmedabad, by way of a reference being Reference LCA No.1600 of 1996. The Labour Court, Ahmedabad by impugned order dated 12.05.1999 allowed the said reference. Hence, this petition.

3.0 Mrs.Bhatt learned advocate for the petitioner has contended that the Labour Court has erred in not appreciating the past record of the respondent workman. She has submitted that on seventeen earlier occasions, the respondent had committed defaults for which appropriate

penalties were imposed and in spite of that the respondent had continued with his mis-conduct. She has, therefore, submitted that the Labour Court has erred in not upholding the order of dismissal passed by the petitioner Corporation.

4.0 Mr. G. K. Rathod learned advocate for the respondent has submitted that since the respondent was not keeping good health on the date on which the raid was conducted, irregularities in the issuance of tickets had occurred. He has submitted that the respondent had in fact collected the fares but could not issue the tickets properly on account of his ill-health.

5.0 I have heard learned counsel for the parties and perused the documents placed on record. It is not in dispute that the past record of the respondent is not good. The respondent had committed several irregularities in the issuance of tickets and in the collection of fares from the passengers. In the departmental inquiry, the charges against the respondent were also proved. However, the Labour Court has modified the order of dismissal by granting reinstatement with continuity in service and a penalty of stoppage of one increment with future effect was imposed on the respondent. The Labour Court has rightly granted reinstatement with continuity in service looking to the period of service of the respondent. But, considering the seriousness of mis-conduct committed by the respondent and keeping in mind his past record, the quantum of punishment imposed by the Labour Court appears to be on the lighter side.

6.0 In above view of the matter, the impugned order of the

Labour Court, Ahmedabad dated 12.05.1999 passed in Reference LCA No.1600 of 1996 is modified to the extent that the direction as regards granting the respondent workman reinstatement with continuity in service is ordered to be confirmed. The penalty of stoppage of one increment with future effect is modified by imposing a penalty of stoppage of **FIVE** increments with future effect. The petitioner Corporation is directed to reinstate the respondent workman within a period of six weeks from the receipt of writ of this order and the consequential benefits flowing thereto, i. e. by granting continuity of service, shall be given to the respondent workman within a period of six months from the date of his reinstatement in service. The petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs. Direct service permitted.

(K. S. JHAVERI, J.)

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